

*(To be filled out in the EDPS' office)*

**NOTIFICATION FOR PRIOR CHECKING**

**DATE OF SUBMISSION: 24/06/2013**

**CASE NUMBER: 2013-0697**

**INSTITUTION: EIB**

**LEGAL BASIS: ARTICLE 27-5 OF THE REGULATION CE N° 45/2001<sup>(1)</sup>**

**INFORMATION TO BE GIVEN<sup>2</sup>**

1/ NAME AND ADDRESS OF THE CONTROLLER

European Investment Bank (EIB)  
98-100, Boulevard Konrad Adenauer  
L – 2950 Luxembourg

2/ ORGANISATIONAL PARTS OF THE INSTITUTION OR BODY ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

DG PERSONNEL

Managers

Head of Division, heads of Unit, loan officers or team leaders acting as reporting officers

3/ NAME OF THE PROCESSING

Performance Improvement Process (PIP)

4/ PURPOSE OR PURPOSES OF THE PROCESSING

The PIP offers practical advice and a structured approach to help EIB managers work together with individual staff members to improve their performance when it falls below acceptable standards.

The EIB is committed to assisting all staff to achieve and maintain satisfactory standards of performance. The aim is to address problems of individual performance.

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<sup>1</sup> OJ L 8, 12.01.2001.

<sup>2</sup> **Please attach all necessary backup documents**

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

All staff members at all levels excluding staff on probationary period.

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA (*including, if applicable, special categories of data (Article 10) and/or origin of data*).

Personal data related to lower performance such as:

- difficulty to adapt to new technologies
- lack of skills or knowledge
- domestic circumstances
- ill health or temporary physical problems
- in the wrong job or wrong grade
- lack of motivation
- personal conflict or conflict in teams
- lack of care, negligence, refusal to follow instructions or procedures.

(It is clear that the individual may not be entirely responsible for the performance problem and there may be scope for the manager to take action to facilitate the individual's performance, for example, by setting clear objectives, prioritising work, tackling problems of conflict, etc.).

**Those data are processed during three stages:**

**Stage I            Discussions    Performance Improvement Plan**

Problem statement, agreement, goals and timescales;

Thorough discussion, or series of discussions, resulting in a document, the Improvement Plan, the manager and the staff member setting out a number of objectives to be attained within a defined period of time.

Regular reviews; conclusion within 3-9 months maximum

**Stage II            Discussion    reviewed and revised Performance Improvement Plan**

Problem statement, agreement, goals and timescales;

If no significant improvement is made within the agreed time, the Plan will be jointly reviewed, with a new timetable for the improvement to be achieved.

Regular reviews; conclusion within 2 to 4 months maximum

**Stage III            Performance hearing**

Objective review of situation, gathering of information, listening to both parties

Again, if there is no significant improvement, the issue is reviewed at a formal Performance Hearing in order to establish if there is a genuine case of low performance and to decide on what action needs to be taken

Decision of action to be taken by DG Personnel

***Possible action to be taken following performance hearing***

- Disciplinary procedure (problem of misconduct). Termination of employment  
Staff regulations, Articles 38-40
- Capability procedure (problem of incapability)  
Meeting of DG Personnel and individual, proposals tabled  
(e.g. performance improvement, adjustment of job, change of position, etc.)
- Resume Stage II with assistance of Performance Adviser
- No further action against individual
- Investigation into other work factors
- Any other appropriate action

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

Since the first stage, initial dialogue data subjects are informed they are submitted to a PIP, its possible outcomes and rights.

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

(Rights of access, to rectify, to block, to erase, to object)

Data subjects may access at any time to their personal file and their rights are protected under the terms of art. 13, 14, 15 and 16 from Regulation 45/2001.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

Manual processing operation. Initial discussions, the Performance Improvement Plan and the Performance Hearing, Capability procedure or Disciplinary measures are not automated operations.

10/ STORAGE MEDIA OF DATA

Performance Improvement Plan copied to hierarchy, DG Personnel and personal file.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Staff Regulation, Articles, 16, 38-40.

12/ THE RECIPIENTS OR CATEGORIES OF RECIPIENT TO WHOM THE DATA MIGHT BE DISCLOSED

DG Personnel, managers. Plan copied to hierarchy.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

General policy for archiving Personal files.

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS

15 days / 15 days.

14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

NA

15/ PROPOSED TRANSFERS OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS

NA

16/ THE PROCESSING OPERATION PRESENTS SPECIFIC RISK WHICH JUSTIFIES PRIOR CHECKING AS FORESEEN IN:

Article 27.2(a) : Processing of data relating to health

Article 27.2.(b)

*Processing operations intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct.*

Article 27.2.(d)

*Processing operations for the purpose of excluding individuals from a right, benefit or contract, as the procedure might conclude for a termination employment proposal*

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17/ COMMENTS

Pre-PIP phase

A formal flagging could begin at any time. It must be reflected in the Appraisal which has to be done every year, and in the mid- year review. After noticing the deficiencies and areas of improvement, if the issue is not serious and that the performance has been improved, the pre-PIP phase is ended.

Nevertheless, if the issue is/ become serious or the performance level is not improved, the Pré-PIP leads to PIP phase immediately.

This is an “ex post” “prior checking” notification cause PIP is a specific procedure not covered by Notification concerning e-appraisal.

PLACE AND DATE: Luxembourg, 24 June 2013

DATA PROTECTION OFFICER: Alberto Souto de Miranda

INSTITUTION OR BODY: European Investment Bank